

REMARKS

The Section 102 Rejections

Claims 1-13 and 20 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Application No. 10/184,022 to Kwan ("Kwan"). Applicants respectfully disagree and traverse these rejections for at least the following reasons.

Claims 1-13 and 20 are directed at a method for retransmitting information which includes, among other things, transmitting a code multiplexed retransmission of a previous transmission...wherein the number of codes used for the retransmission is variable based on the condition of a communication channel.

Kwan does not disclose or suggest such a retransmission method. On page 7, in the "Response to Arguments" section of the Final Office Action, the Examiner refers the Applicants to paragraph 146 of Kwan and further states that Kwan's "method of transmission...could easily be used as a method of retransmission."

Applicants have read the excerpt from Kwan referred to by the Examiner. In the excerpt, Kwan sets forth a general statement of the known retransmission scheme presently used in the HSDPA protocol. There is no discussion of a retransmission scheme other than this general statement, let alone a disclosure or suggestion of the retransmission methods set forth in the claims of the present invention.

In addition, Applicants submit that the Examiner's statement that Kwan's transmission scheme can be used for retransmission is not a basis for a rejection under §102 and 103. That is to say, the Examiner appears to be relying on his own personal knowledge. As such, the Applicants' respectfully request that the Examiner set forth in an affidavit or declaration specific factual statements to support his position (see for example, MPEP 2144.03(c)). Absent such an

affidavit or declaration, Applicants respectfully request that the Examiner withdraw the §102 rejections and allow claims 1-13 and 20.

The Section 103 Rejections

Claims 14-19 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kwan in view of U.S. Patent No. 6,366,568 to Bolgiano ("Bolgiano"). Applicants respectfully disagree and traverse these rejections for at least the following reasons.

Each of these claims include, among other things, the feature of sending a fixed duration transmission from a previous transmission. As indicated above, Kwan does not disclose or suggest such a transmission scheme nor is one inherent in the disclosure of Kwan. Bolgiano does not make up for the deficiencies of Kwan. Accordingly, for this reason the combination of Kwan and Bolgiano does not disclose or suggest the subject matter of claims 14-19.

In addition, Applicants acknowledge the Examiner's previous admission that Kwan does not disclose "using a transmission domain selected from a space domain and defining the transmission formats based on certain parameters". Because Bolgiano does not disclose or suggest methods for providing adaptive incremental redundancy which includes among other things, sending a fixed duration retransmission from a previous transmission in a domain selected from a group consisting of a code domain, frequency domain, and space domain it is respectfully submitted that the claims of the present invention would not have been obvious to one of ordinary skill in the art at the time the application was filed based on the disclosures of Kwan or Bolgiano, taken separately or in combination.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John E. Curtin at the telephone number of the undersigned below.

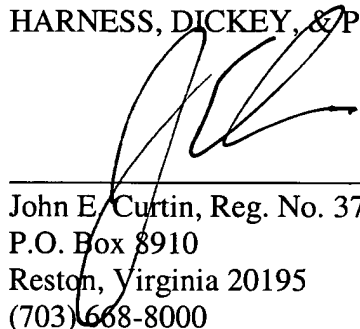
In the event this Response does not place the present application in condition for allowance, applicant requests the Examiner to contact the undersigned at (703) 668-8000 to schedule a personal interview.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY, & PIERCE, P.L.C.

By



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